

**CORPORATE INTEGRITY AGREEMENT**  
**BETWEEN THE**  
**OFFICE OF INSPECTOR GENERAL**  
**OF THE**  
**DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
**AND**  
**WAC, INC.**

**I. PARTIES**

WAC, Inc. (now known as Holland-Glen but hereinafter referred to as "WAC") enters into this Corporate Integrity Agreement ("CIA") with the Office of Inspector General ("OIG") of the United States Department of Health and Human Services ("HHS") to ensure compliance by the facilities it operates presently or in the future ("WAC's Facilities"), its directors, employees, physicians, other health care professionals, and contractors and agents who provide healthcare-related services, with the requirements of the Medicare, Medicaid and all other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) ("Federal health care programs"), to the extent that each such requirement presently or in the future is applicable to WAC. Any reference to Federal health care programs shall include the Pennsylvania Medical Assistance Program. Copies of any notices, reports or submissions to the OIG made hereunder simultaneously shall be provided to Pennsylvania Department of Public Welfare ("DPW"). WAC's compliance with the terms and conditions in this CIA shall constitute an element of WAC's present responsibility with regard to participation in the Federal health care programs. Contemporaneously with this CIA, WAC is entering into a Settlement Agreement with the United States, DPW and its Bureau of Financial Operations, and this CIA is incorporated by reference into the Settlement Agreement.

**II. TERM OF THE CIA**

The period of the compliance obligations assumed by WAC under this CIA shall be three (3) years from the effective date of this CIA (unless otherwise specified). The effective date of this CIA will be the date on which the final signatory of this CIA executes this CIA (the "effective date").

### III. CORPORATE INTEGRITY OBLIGATIONS

WAC shall establish a compliance program that includes the following elements.

A. Compliance Officer. Within ninety (90) days after the effective date of this CIA, WAC shall appoint an individual to serve as Compliance Officer, who shall be responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements set forth in this CIA and with the requirements of the Federal health care programs. The Compliance Officer shall be a member of senior management of WAC, shall make regular (at least quarterly) reports regarding compliance matters directly to the CEO and/or to the Board of Directors of WAC, and shall be authorized to report to the Board of Directors at any time. The Compliance Officer shall be responsible for monitoring the day-to-day activities engaged in by WAC to further its compliance objectives as well as any reporting obligations created under this CIA. In the event a new Compliance Officer is appointed during the term of this CIA, WAC shall notify the OIG, in writing, within fifteen (15) days of such a change.

WAC shall also appoint a Compliance Committee within ninety (90) days after the effective date of this CIA. The Compliance Committee shall, at a minimum, include the Compliance Officer and any other appropriate officers as necessary to meet the requirements of this CIA within WAC's corporate structure (e.g., senior executives of each major department, which might include, if applicable, billing, clinical, human resources, audit, and operations). The Compliance Officer shall chair the Compliance Committee and the Committee shall support the Compliance Officer in fulfilling his/her responsibilities.

B. Written Standards.

1. *Code of Conduct.* Within ninety (90) days of the effective date of this CIA, WAC shall establish a Code of Conduct. The Code of Conduct shall be distributed to all of WAC's officers, directors, employees, and contractors and agents providing healthcare-related services for which WAC bills Federal health care programs ("covered persons") within ninety (90) days of the effective date of this CIA. WAC shall make the promotion of, and adherence to, the Code of Conduct an element in evaluating the performance of covered persons. The Code of Conduct shall, at a minimum, set forth:

- a. WAC's commitment to full compliance with all Federal health care programs' statutes, regulations, and guidelines applicable to WAC's Facilities, including its commitment to prepare and submit accurate invoices, budgets, financial reports, functional expenditure reports, and other information (e.g., medical assistance applications or service authorization requests), consistent with Federal health care program regulations and procedures or instructions otherwise communicated by the Federal health care programs or their agents with responsibility for Pennsylvania providers such as WAC;
- b. WAC's requirement that all covered persons shall be expected to comply with all Federal health care programs' statutes, regulations, and guidelines applicable to WAC's Facilities and with WAC's own policies and procedures (including the requirements of this CIA);
- c. The requirement that all covered persons shall be expected to report to the Compliance Officer or through the confidential disclosure program suspected violations of any Federal health care program statute, regulation, or guideline applicable to WAC's Facilities or suspected violations of WAC's own policies and procedures;
- d. The possible consequences to both WAC and to any covered person of failure to comply with all Federal health care programs' statutes, regulations, and guidelines applicable to WAC's Facilities and with WAC's own policies and procedures or of failure to report such non-compliance to the Compliance Officer or through the confidential disclosure program; and
- e. The right of all covered persons to use the confidential disclosure program, as well as WAC's commitment to confidentiality and non-retaliation with respect to disclosures.

Except as provided below in Section III.C.4., within ninety (90) days of the effective date of the CIA, each covered person shall certify, in writing, that he or she has received, read, understands, and will abide by WAC's Code of Conduct. New covered persons shall receive the Code of Conduct and shall complete the required certification

within two (2) weeks after becoming a covered person or within ninety (90) days of the effective date of the CIA, whichever is later.

WAC will annually review the Code of Conduct and will make any necessary revisions. These revisions shall be distributed within thirty (30) days of initiating such a change. Covered persons shall certify on an annual basis that they have received, read, understand and will abide by the Code of Conduct.

2. *Policies and Procedures.* Within ninety (90) days of the effective date of this CIA, WAC shall develop and initiate implementation of written Policies and Procedures regarding the operation of its compliance program and regarding its compliance with all federal and state health care statutes, regulations, and guidelines. At a minimum, the Policies and Procedures shall specifically address:

- a. Measures designed to ensure that WAC fully complies with all Federal health care programs' statutes, regulations and guidelines applicable to WAC's Facilities.
- b. Disciplinary guidelines and methods for employees to make disclosures or otherwise report on compliance issues to WAC management through the Confidential Disclosure Program required by section III.E.
- c. Measures designed to ensure that compliance issues identified internally (e.g., through reports to supervisors, internal audits) or externally (e.g., audits performed by WAC's audit or accounting firm(s) or any other externally performed reviews) are promptly and appropriately investigated by WAC and, if the investigation substantiates compliance issues, WAC implements appropriate corrective action plans and monitors compliance with such plans.
- d. Measures designed to ensure that budgets and financial reports correctly reflect relationships with related parties and that required approvals for any related party relationships are obtained annually from DPW or the City of Philadelphia Department of Human Services ("DHS").

WAC shall assess and update the Policies and Procedures at least annually and more frequently, as necessary and appropriate. The Policies and Procedures will be available to OIG upon request.

Within ninety (90) days of the effective date of the CIA, the relevant portions of the Policies and Procedures shall be made available to all appropriate covered persons. The Compliance Committee and supervisors should be available to explain any and all policies and procedures.

C. Training and Education. WAC shall meet the following training requirements. These training requirements are cumulative (not exclusive) so that one person may be required to attend training in several substantive areas in addition to the general training. Persons providing the training must be knowledgeable about the relevant subject area. All training requirements set forth below shall be implemented within one-hundred twenty (120) days of the effective date of this CIA and thereafter repeated annually during the term of the CIA.

1. *General Training*. Except as provided below in Section III.C.4, WAC shall provide at least one (1) hour of training to each covered person. This general training, which can be incorporated into WAC's existing training program, shall explain WAC's:

- a. Corporate Integrity Agreement requirements;
- b. Compliance Program (including the Policies and Procedures as they pertain to general compliance issues); and
- c. Code of Conduct.

The training material shall be made available to the OIG, upon request.

2. *Specific Training*. Except as provided below in Section III.C.4, each covered person who is involved directly in the delivery of resident care and/or in the preparation or submission of information to any Federal health care program (including budgets, functional expenditure reports or fee-for-service claims through Medicaid managed care plans) shall receive at least four (4) hours of training in addition to the general training required above. This specific training can be part of WAC's existing training requirements and, to the extent these topics are not covered in WAC's current training program, the training program shall be revised to include a discussion of:

- a. Policies and procedures and other requirements related to the submission of accurate information to Federal health care programs;
- b. Policies, procedures and other requirements applicable to the provision of quality care and the documentation of medical records;
- c. The personal obligation of each individual involved in the resident care, documentation, and/or reimbursement process to ensure that the information provided is accurate;
- d. Applicable statutes, regulations, and program requirements and directives relevant to the person's duties;
- e. The legal sanctions for improper submissions to Federal health care programs;
- f. Examples of proper and improper practices related to WAC's Facilities.

3. *New Persons.* Except as provided below in Section III.C.4, affected new covered persons shall receive the training required by this CIA within one month of the beginning of their employment or contractual relationship with WAC or within one-hundred twenty (120) days of the effective date of this CIA, whichever is later. If a new covered person is in a position for which training is required under this CIA prior to receiving all the training required for that position, a WAC employee who has completed the substantive training shall review all of the untrained person's work related to that substantive area.

4. *Contractors and Agents.* For purposes of the training requirements under Section III.C., contractors and agents providing healthcare-related services at least twenty hours per week (e.g., physical therapists, speech therapists and audiologists) are required to meet the training requirements specified in this Section III.C.4. Contractors and agents providing healthcare-related services less than twenty hours per week are not required to meet the training requirements under this CIA. Contractors and agents required to meet the training requirements must meet all the requirements for the general training specified in Section III.C.1 above and can meet the requirements for the specific training in Section III.C. 2 above by certifying that he/she attended continuing education specific to his or her specialty and he/she is, if applicable, licensed or certified by the

Commonwealth of Pennsylvania. New contractors and agents must meet the training requirements set forth in this Section III.C.4. within one-hundred eighty (180) days after the beginning of their contractual relationship with WAC or execution of this CIA, whichever is later.

5. *Certifications and Retention.* Each person who is required to attend training shall certify, in writing, that he or she has attended the required training. The certification shall specify the type of training received and the date received. The Compliance Officer shall retain the certifications as well as the specific course materials and make all of these certifications and materials available to OIG upon request.

D. Review Procedures.

1. *General Description.*

a. *Retention of Independent Review Organization.* Within 90 days of the effective date of this CIA, WAC shall retain an entity (or entities), such as an accounting, auditing or consulting firm (hereinafter "Independent Review Organization" or "IRO"), to perform review engagements to assist WAC in evaluating its billing and coding practices and its compliance obligations pursuant to this CIA and the Settlement Agreement. Each Independent Review Organization retained by WAC shall have expertise in the billing, coding, reporting and other requirements of the particular section of the health care industry pertaining to this CIA and in the general requirements of the Federal health care program(s) from which WAC seeks reimbursement.

b. *Types of Engagements.* The Independent Review Organization(s) shall conduct two separate engagements. One engagement shall address WAC's billing and coding to the Federal health care programs ("Billing Engagement"). The second engagement shall address WAC's compliance with the obligations assumed under this CIA and the Settlement Agreement ("Compliance Engagement").

c. Frequency of Billing and Compliance Engagements. The Billing Engagement shall be performed annually and shall cover each of the one-year periods beginning with the effective date of this CIA. The IRO(s) shall perform all components of each annual Billing Engagement. The Compliance Engagement shall be performed by the IRO for the first one-year period beginning with the effective date of this CIA.

d. Retention of Records. The IRO and WAC shall retain and make available to the OIG upon request all work papers, supporting documentation, correspondence, and draft reports related to the engagements.

2. *Billing Engagement.* The Billing Engagement shall be composed of two separate reviews, a "Claims Review" and a "Systems Review." The Claims Review and corresponding Claims Review Report are discussed in detail in Appendix A to this CIA, which is incorporated by reference.

a. Claims Review. The IRO shall perform a Claims Review to identify any overpayments through an appraisal of Paid Claims submitted by WAC to the Medicare program and all other Federal health care programs. The Claims Review shall be performed in accordance with the procedures set forth in Appendix A to this CIA.

b. Claims Review Report. The IRO shall prepare a report based upon each Claims Review performed ("Claims Review Report"). The Claims Review Report shall be created in accordance with the procedures set forth in Appendix A to this CIA.

c. Systems Review. The IRO shall review WAC's billing and coding systems and/or operations (the "Systems Review"). The Systems Review shall consist of a thorough review of the following:

(i) WAC's billing systems and/or operations relating to claims submitted to all Federal health care programs (including, but not limited to, the operation of the billing system, safeguards to ensure proper claim submission and billing, and procedures to correct inaccurate billing); and

(ii) WAC's coding systems and/or operations relating to claims submitted to all Federal health care programs (including, but not limited to, the process by which claims are coded, safeguards to ensure proper coding, and procedures to correct inaccurate coding).

d. Systems Review Report. The IRO shall prepare a report based upon each Systems Review performed ("Systems Review Report"). The Systems Review Report shall include the IRO's findings and supporting rationale regarding:

(i) the strengths and weaknesses in WAC's billing systems and/or operations;

(ii) the strengths and weaknesses in WAC's coding systems and/or operations; and

(iii) any recommendations the IRO may have to improve any of these systems, operations, and processes.

### *3. Compliance Engagement.*

a. Compliance Review. The IRO shall conduct a review of WAC's compliance activities ("Compliance Review"). The Compliance Review shall consist of a review of WAC's compliance with the obligations set forth in each section of this CIA, and a review of WAC's compliance with certain provisions of the Settlement Agreement. The IRO shall evaluate WAC's compliance with the obligations set forth in each section of this CIA.

b. **Compliance Review Report.** The IRO shall prepare a report based upon the Compliance Review performed (the "Compliance Review Report"). The Compliance Review Report shall include the IRO's findings, supporting rationale, and a summary of such findings and rationale regarding WAC's compliance with the terms of each section of the CIA, as applicable.

4. **Validation Review.** In the event the OIG has reason to believe that: (a) WAC's Billing or Compliance Engagement fails to conform to the requirements of this CIA or (b) the findings or Claims Review results are inaccurate, the OIG may, at its sole discretion, conduct its own review to determine whether the Billing and Compliance Engagement comply with the requirements of the CIA and/or the findings or Claims Review results are inaccurate. WAC agrees to pay for the reasonable cost of any such review performed by the OIG or any of its designated agents so long as it is initiated before one year after the final submission (as described in section II) is received by the OIG.

E. **Confidential Disclosure Program.** Within ninety (90) days after the effective date of this CIA, WAC shall establish a Confidential Disclosure Program ("CDP"), which must include measures (e.g., a Post Office box or a complaint box) to enable employees, contractors, agents or other individuals to disclose, to the Compliance Officer or some other person who is not in the reporting individual's chain of command, any identified issues or questions associated with WAC's policies, practices or procedures related to the Federal health care program (e.g., issues involving quality of care or the propriety of receipt by WAC of federally funded monies) that the individual believes to be inappropriate. WAC shall publicize the existence of the CDP (e.g., notice to employees or post information in prominent common areas).

The CDP shall emphasize a non-retribution, non-retaliation policy, and shall include a reporting mechanism for anonymous, confidential communication. Upon receipt of a complaint, the Compliance Officer (or designee) shall gather the information in such a way as to elicit all relevant information from the individual reporting the alleged misconduct. The Compliance Officer (or designee) shall make a preliminary good faith inquiry into the allegations set forth in every disclosure to ensure that he or she has obtained all of the information necessary to determine whether a further review should be conducted. For any disclosure that is sufficiently specific so that it reasonably: (1)

permits a determination of the appropriateness of the alleged improper practice, and (2) provides an opportunity for taking corrective action, WAC shall conduct an internal review of the allegations set forth in such a disclosure and ensure that proper follow-up is conducted.

The Compliance Officer shall maintain a confidential disclosure log, which shall include a record and summary of each allegation received, the status of the respective investigations, and any corrective action taken in response to the investigation.

F. Ineligible Persons.

1. *Definition.* For purposes of this CIA, an "Ineligible Person" shall be any individual or entity who: (i) is currently excluded, debarred or otherwise ineligible to participate in the Federal health care programs; or (ii) has been convicted of a criminal offense related to the provision of health care items or services but has not yet been excluded, disbarred or otherwise declared ineligible.

2. *Screening Requirements.* WAC shall not hire or engage as healthcare service providers any Ineligible Person. To prevent hiring or contracting with any Ineligible Person, WAC shall screen all prospective employees and prospective contractors prior to engaging their services by (i) requiring applicants to disclose whether they are Ineligible Persons, and (ii) reviewing the General Services Administration's List of Parties Excluded from Federal Programs (available through the Internet at <http://epls.arnet.gov>) and the HHS/OIG List of Excluded Individuals/Entities (available through the Internet at <http://www.hhs.gov/oig>) (these lists will hereinafter be referred to as the "Exclusion Lists").

In addition, WAC shall require employees to disclose immediately any debarment, exclusion or other event that makes the employee into an Ineligible Person.

3. *Review and Removal Requirement.* Within ninety (90) days of the effective date of this CIA, WAC will review its list of current employees and contractors against the Exclusion Lists. Thereafter, WAC will review the list semi-annually. If WAC has notice that an employee or contractor has become an Ineligible Person, WAC will remove such person from responsibility for, or involvement with, WAC's business operations related to the Federal health care programs and shall remove such person from any position for which the person's salary or the items or services rendered, ordered, or prescribed by the person are paid in whole or part, directly or indirectly, by Federal health

care programs or otherwise with Federal funds at least until such time as the person is reinstated into participation in the Federal health care programs.

4. *Pending Charges and Proposed Exclusions.* If WAC has notice that an employee or contractor is charged with a criminal offense related to any Federal health care program, or is proposed for exclusion during his or her employment or contract, WAC shall take all appropriate actions to ensure that the responsibilities of that employee or contractor have not and will not adversely affect the quality of care rendered to any patient or resident, or the accuracy of any claims submitted to any Federal health care program.

5. Notwithstanding anything to the contrary in this section or in section X.A.3 *infra*, WAC may continue to contract with Positive Managers, Inc. for the sole purpose of leasing the premises it occupies at 90 Cafferty Road, Point Pleasant, PA 18950, pursuant to the lease dated June 30, 1993, as amended and extended from time to time.

G. Notification of Proceedings. Within thirty (30) days of discovery, WAC shall notify OIG, in writing, of any ongoing investigation or legal proceeding conducted or brought by a governmental entity or its agents involving an allegation that WAC has committed a crime or has engaged in fraudulent activities. This notification shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding. WAC shall also provide written notice to OIG within thirty (30) days of the resolution of the matter, and shall provide OIG with a description of the findings and/or results of the proceedings, if any.

#### H. Reporting.

##### 1. *Overpayments*

a. *Definition of Overpayments.* For purposes of this CIA, an "overpayment" shall mean the amount of money WAC has received in excess of the amount due and payable under the Federal health care programs' statutes, regulations or guidelines (e.g., carrier and intermediary instructions), or in excess of amounts otherwise agreed upon by DHS or other county social services agencies. Except as provided in section III.H.1.b., WAC may not subtract any underpayments for purposes of determining the amount of relevant "overpayments".

*b. Reporting of Overpayments.* If, at any time, WAC identifies or learns of any billing, coding or other policies, procedures and/or practices that result in overpayments, WAC shall notify the payor (e.g., Medicare fiscal intermediary or carrier) and repay any overpayments, or, if agreed upon by DHS, authorize an offset or credit against claims currently due to WAC, within thirty (30) days of discovery and take remedial steps within thirty (30) days of discovery (or such additional time as may be agreed to by the payor) to correct the problem, including preventing the underlying problem and the overpayments from recurring. Notification to the contractor should be done in accordance with the contractor policies, and for Medicare contractors, can be done pursuant to a form similar to the Overpayment Refund Form, provided as Appendix B to this CIA.

## *2. Material Deficiencies.*

*a. Definition of Material Deficiency.* For purposes of this CIA, a "Material Deficiency" means anything that involves:

- (i) a substantial overpayment relating to any Federal health care program; OR
- (ii) a matter that a reasonable person would consider a potential violation of criminal, civil, or administrative laws applicable to any Federal health care program for which penalties or exclusion are authorized.

A Material Deficiency may be the result of an isolated event or a series of occurrences.

*b. Reporting of Material Deficiencies.* If WAC determines that there is a material deficiency, WAC shall notify OIG within thirty (30) days of making the determination that the Material Deficiency exists. The report to OIG shall include the following information:

- (i) If the Material Deficiency results in an overpayment, the report to the OIG shall be made at the same time as the notification to the payor required in section H.1, and shall include all of the information on the Overpayment Refund Form, as well as:

(a) the payor's name, address, and contact person to whom the overpayment was sent; and

(b) the date of the check and identification number (or electronic transaction number) on which the overpayment was repaid/refunded.

(ii) a complete description of the Material Deficiency, including the relevant facts, persons involved, and legal and program authorities implicated;

(iii) a description WAC's actions to correct the Material Deficiency; and

(iv) any further steps WAC plans to take to address such a Material Deficiency and prevent it from recurring.

#### **IV. NEW LOCATION AND BUSINESS UNITS**

In the event that WAC purchases or establishes new programs after the effective date of this CIA, WAC shall notify OIG of this fact within thirty (30) days of the date of purchase or establishment. This notification shall include, if applicable, the location of the new operation(s), phone number, fax number, Federal health care program Provider number(s) (if any), and the corresponding payor(s) (contractor specific) that has issued each provider number. All covered persons at such locations shall be subject to the requirements in this CIA that apply to new covered persons (e.g., completing certifications and undergoing training).

#### **V. IMPLEMENTATION AND ANNUAL REPORTS**

A. Implementation Report. Within one hundred fifty (150) days after the effective date of this CIA, WAC shall submit a written report to OIG summarizing the status of its implementation of the requirements of this CIA. This Implementation Report shall include:

1. The name, address, phone number and position description of the Compliance Officer required by section III.A;

2. The names and positions of the members of the Compliance Committee required by section III.A;
3. A copy of WAC's Code of Conduct required by section III.B.1;
4. The summary of the Policies and Procedures required by section III.B.2;
5. A description of the training programs required by section III.C including a description of the targeted audiences and a schedule of when the training sessions were held;
6. A certification by the Compliance Officer that:
  - a. The Policies and Procedures required by section III.B have been developed, are being implemented, and have been distributed to all covered persons;
  - b. All covered persons have completed the Code of Conduct certification required by section III.B.1; and
  - c. All covered persons have completed the training and executed the certification required by section III.C.
7. A description of the confidential disclosure program required by section III.E;
8. The identity of the Independent Review Organization(s) and the proposed start and completion date of the first audit period to be reviewed; and
9. A summary of personnel actions (other than hiring) taken pursuant to section III.F.
10. A list of all of WAC's locations and facilities owned or operated (including street and mailing addresses), the corresponding name under which each facility is doing business, the corresponding phone numbers and fax numbers, each facility's Federal health care program provider

identification number(s), and the name, address, and telephone number of the payor (specific contractor) that issued each provider identification number.

B. Annual Reports. WAC shall submit to OIG an Annual Report with respect to the status and findings of WAC's compliance activities. The Annual Reports shall include:

1. Any change in the identity or position description of the Compliance Officer and/or members of the Compliance Committee described in section III.A;
2. A certification by the Compliance Officer that:
  - a. All covered persons have completed the annual Code of Conduct certification required by section III.B.1; and
  - b. All covered persons have completed the training and executed the certification required by section III.C.
3. Notification of any changes or amendments to the Policies and Procedures required by section III.B and the reasons for such changes (e.g., change in contractor policy);
4. A complete copy of the report prepared pursuant to the Independent Review Organization's billing and compliance engagements, including a copy of the methodology used.
5. WAC's response/corrective action plan to any issues raised by the Independent Review Organization.
6. A summary of material deficiencies reported throughout the course of the previous twelve (12) months pursuant to III.D.3 and III.H.
7. A report of the aggregate overpayments that have been returned to the Federal health care programs that were discovered as a direct or indirect result of implementing this CIA. Overpayment amounts should be broken

down into the following categories: Medicare, Medicaid (report each applicable state separately) and other Federal health care programs;

8. A copy of the confidential disclosure log required by section III.E;
9. A description of any personnel action (other than hiring) taken by WAC as a result of the obligations in section III.F;
10. A summary describing any ongoing investigation or legal proceeding conducted or brought by a governmental entity involving an allegation that WAC has committed a crime or has engaged in fraudulent activities, which have been reported pursuant to section III.G. The statement shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation, legal proceeding or requests for information;
11. A corrective action plan to address the probable violations of law identified in section III.H; and
12. A description of all changes to the most recently provided list (as updated) of WAC's locations (including locations and mailing addresses), the corresponding name under which each location is doing business, the corresponding phone numbers and fax numbers, each location's Federal health care program provider identification number(s), and the name, address, and telephone number of the payor (specific contractor) that issued each provider identification number.

The first Annual Report shall apply to the fiscal year ending June 30, 2001 and shall be received by the OIG no later than December 31, 2001. Subsequent Annual Reports shall be submitted no later than the 31<sup>st</sup> of December of each year.

C. Certifications. The Implementation Report and Annual Reports shall include a certification by the Compliance Officer, under penalty of perjury, that: (1) WAC is in compliance with all of the requirements of this CIA, to the best of his or her knowledge; and (2) the Compliance Officer has reviewed the Report and has made reasonable inquiry regarding its content and believes that, upon such inquiry, the information is accurate and truthful.

## **VI. NOTIFICATIONS AND SUBMISSION OF REPORTS**

Unless otherwise stated in writing subsequent to the effective date of this CIA, all notifications and reports required under this CIA shall be submitted to the entities listed below:

### **OIG:**

Civil Recoveries Branch - Compliance Unit  
Office of Counsel to the Inspector General  
Office of Inspector General  
U.S. Department of Health and Human Services  
Cohen Building, Room 5527  
330 Independence Avenue, SW  
Washington, DC 20201  
Phone: 202.619.2078  
Fax: 202.205.0604

### **DPW:**

Pennsylvania Department of Public Welfare  
Office of Mental Retardation  
Southeast Region  
State Office Building  
1400 Spring Garden Street  
Philadelphia, PA 19130

### **WAC:**

Holland-Glen (f/k/a WAC, Inc.)  
90 Cafferty Road  
Post Office Box 520  
Point Pleasant, PA 18950  
Attn: Chief Executive Officer

Unless otherwise specified, all notifications and reports required by this CIA may be made by certified mail, overnight mail, hand delivery or other means, provided that there

is proof that such notification was received. For purposes of this requirement, internal facsimile confirmation sheets do not constitute proof of receipt.

## **VII. OIG INSPECTION, AUDIT AND REVIEW RIGHTS**

In addition to any other rights OIG may have by statute, regulation, or contract, OIG or its duly authorized representative(s), as well as DPW, may, upon reasonable notice to WAC, examine WAC's books, records, and other documents and supporting materials and/or conduct an onsite review of WAC's operations for the purpose of verifying and evaluating: (a) WAC's compliance with the terms of this CIA; and (b) WAC's compliance with the requirements of the Federal health care programs in which it participates. The documentation described above shall be made available by WAC to OIG or its duly authorized representative(s) at all reasonable times for inspection, audit or reproduction. Furthermore, for purposes of this provision, OIG or its duly authorized representative(s) may, after reasonable notice to WAC, interview any of WAC's employees, contractors, and agents who consent to be interviewed at such person's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the employee, contractor, and agent and OIG. WAC agrees to assist OIG in contacting and arranging interviews with such employees, contractors, and agents upon OIG's request. WAC's employees may elect to be interviewed with or without counsel or a representative of WAC present.

## **VIII. DOCUMENT AND RECORD RETENTION**

WAC shall maintain for inspection all documents and records relating to reimbursement from the Federal health care programs or to compliance with this CIA, one year longer than the term of this CIA (or longer if otherwise required by law).

## **IX. DISCLOSURES**

Subject to HHS's Freedom of Information Act ("FOIA") procedures, set forth in 45 C.F.R. Part 5, the OIG shall make a reasonable effort to notify WAC prior to any release by OIG of information submitted by WAC pursuant to its obligations under this CIA and identified upon submission by WAC as trade secrets, commercial or financial information and privileged and confidential under the FOIA rules. WAC shall refrain from identifying any information as trade secrets, commercial or financial information and privileged and confidential that does not meet the criteria for exemption from disclosure under FOIA.

## **X. BREACH AND DEFAULT PROVISIONS**

WAC is expected to fully and timely comply with all of the obligations herein throughout the term of this CIA or other time frames herein agreed to.

A. Stipulated Penalties for Failure to Comply with Certain Obligations As a contractual remedy, WAC and OIG hereby agree that failure to comply with certain obligations set forth in this CIA may lead to the imposition of the following monetary penalties (hereinafter referred to as "Stipulated Penalties") in accordance with the following provisions.

1. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day, beginning ninety (90) days after the effective date of this CIA and concluding at the end of the term of this CIA, WAC fails to have in place any of the following:

1. Compliance Officer as described in section III.A;
2. Written Code of Conduct as described in section III.B.1;
3. Written Policies and Procedures as described in section III.B.2;
4. Training Program as described in section III.C; and
5. Confidential Disclosure Program as described in section III.E.

2. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day WAC fails meet any of the deadlines to submit the Implementation Report or the Annual Reports to the OIG.

3. A Stipulated Penalty of \$2,000 (which shall begin to accrue on the date the failure to comply began) for each day WAC employs or contracts with an Ineligible Person and that person: (i) has responsibility for, or involvement with, WAC's business operations related to the Federal health care programs or (ii) is in a position for which the person's salary or the items or services rendered, ordered, or prescribed by the person are paid in whole or part, directly or indirectly, by Federal health care programs or otherwise with Federal funds (this Stipulated Penalty shall not be demanded for any time period during which WAC can demonstrate that it did not discover the person's exclusion or other ineligibility after making a reasonable inquiry (as described in section III.H) as to the status of the person).

4. A Stipulated Penalty of \$1,500 (which shall begin to accrue on the date WAC fails to grant access) for each day WAC fails to grant access to the information or documentation as required in section V of this CIA.

5. A Stipulated Penalty of \$1,000 (which shall begin to accrue ten (10) days after the date that OIG provides notice to WAC of the failure to comply) for each day WAC fails to comply fully and adequately with any obligation of this CIA. In its notice to WAC, the OIG shall state the specific grounds for its determination that the WAC has failed to comply fully and adequately with the CIA obligation(s) at issue.

**B. Payment of Stipulated Penalties.**

1. *Demand Letter.* Upon a finding that WAC has failed to comply with any of the obligations described in section X.A and determining that Stipulated Penalties are appropriate, OIG shall notify WAC of: (a) WAC's failure to comply; and (b) the OIG's exercise of its contractual right to demand payment of the Stipulated Penalties (this notification is hereinafter referred to as the "Demand Letter").

Within fifteen (15) days of the date of the Demand Letter, WAC shall either (a) cure the breach to the OIG's reasonable satisfaction and pay the applicable stipulated penalties; or (b) request a hearing before an HHS administrative law judge ("ALJ") to dispute the OIG's determination of noncompliance, pursuant to the agreed upon provisions set forth below in section X.D. In the event WAC elects to request an ALJ hearing, the Stipulated Penalties shall continue to accrue until (1) WAC cures, to the OIG's reasonable satisfaction, the alleged breach in dispute or (2) the ALJ determines that WAC has been in compliance with the CIA. If the ALJ determines that there has been compliance with the CIA, no Stipulated Penalties shall be due. Failure to respond to the Demand Letter in one of these two manners within the allowed time period shall be considered a material breach of this CIA and shall be grounds for exclusion under section X.C

2. *Timely Written Requests for Extensions.* WAC may submit a timely written request for an extension of time to perform any act or file or submit any notification or report required by this CIA. Notwithstanding any other provision in this section, if OIG grants the timely written request with respect to an act, notification, or report, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until one day after WAC fails to meet the revised deadline as

agreed to by the OIG-approved extension. Notwithstanding any other provision in this section, if OIG denies such a timely written request, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until two (2) business days after WAC receives OIG's written denial of such request. A "timely written request" is defined as a request in writing received by OIG at least five (5) business days prior to the date by which any act is due to be performed or any notification or report is due to be filed or submitted.

3. *Form of Payment.* Payment of the Stipulated Penalties shall be made by certified\ or cashier's check, payable to "Secretary of the Department of Health and Human Services," and submitted to OIG at the address set forth in section VI.

4. *Independence from Material Breach Determination.* Except as otherwise noted, these provisions for payment of Stipulated Penalties shall not affect or otherwise set a standard for the OIG's determination that WAC has materially breached this CIA, which decision shall be made at the OIG's discretion and governed by the provisions in section X.C, below.

C. Exclusion for Material Breach of this CIA

1. *Notice of Material Breach and Intent to Exclude.* The parties agree that a material breach of this CIA by WAC constitutes an independent basis for WAC's exclusion from participation in the Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)). Upon a determination by OIG that WAC has materially breached this CIA and that exclusion should be imposed, the OIG shall notify WAC of (a) WAC's material breach; and (b) OIG's intent to exercise its contractual right to impose exclusion (this notification is hereinafter referred to as the "Notice of Material Breach and Intent to Exclude").

2. *Opportunity to cure.* WAC shall have thirty five (35) days from the date of the Notice of Material Breach and Intent to Exclude Letter to demonstrate to the OIG's satisfaction that:

- a. WAC is in full compliance with this CIA;
- b. The alleged material breach has been cured; or
- c. The alleged material breach cannot be cured within the 35-day period, but that: (i) WAC has begun to take action to cure the material breach, (ii) WAC is pursuing such action with

due diligence, and (iii) WAC has provided to OIG a reasonable timetable for curing the material breach.

3. *Exclusion Letter.* If at the conclusion of the thirty five (35) day period, WAC fails to satisfy the requirements of section X.C.2, OIG may exclude WAC from participation in the Federal health care programs. OIG will notify WAC in writing of its determination to exclude WAC (this letter shall be referred to hereinafter as the "Exclusion Letter"). Subject to the Dispute Resolution provisions in section X.D, below, the exclusion shall go into effect thirty (30) days after the date of the Exclusion Letter. The exclusion shall have national effect and will also apply to all other federal procurement and non-procurement programs. If WAC is excluded under the provisions of this CIA, WAC may seek reinstatement pursuant to the provisions at 42 C.F.R. §§ 1001.3001-.3004.

4. *Material Breach.* A material breach of this CIA means:

- a. Failure by WAC to report a material deficiency, take corrective action and pay the appropriate refunds, as provided in section III.D;
- b. Repeated or flagrant violations of the obligations under this CIA, including, but not limited to, the obligations addressed in section X.A of this CIA;
- c. Failure to respond to a Demand letter concerning the payment of Stipulated Penalties in accordance with section X.B above;
- d. Failure to retain and use an Independent Review Organization for review purposes in accordance with section III.D; or

#### D. Dispute Resolution

1. *Review Rights.* Upon the OIG's delivery to WAC of its Demand Letter or of its Exclusion Letter, and as an agreed-upon contractual remedy for the resolution of disputes arising under the obligation of this CIA, WAC shall be afforded certain review rights comparable to those provided in 42 U.S.C. § 1320a-7(f) and 42 C.F.R. § 1005 as if they applied to the Stipulated Penalties or exclusion sought pursuant to this CIA. Specifically, the OIG's determination to demand payment of Stipulated Penalties or to seek exclusion shall be subject to review by an ALJ and, in the event of an appeal, the Departmental Appeals Board ("DAB"), in a manner consistent with the provisions in 42 C.F.R. §§ 1005.2-1005.21. Notwithstanding the language in 42 C.F.R. § 1005.2(c), the request for a hearing involving stipulated penalties shall be made within fifteen (15) days of the date of the Demand Letter and the request for a hearing involving exclusion shall be made within thirty (30) days of the date of the Exclusion Letter.

2. *Stipulated Penalties Review.* Notwithstanding any provision of Title 42 of the United States Code or Chapter 42 of the Code of Federal Regulations, the only issues in a proceeding for stipulated penalties under this CIA shall be (a) whether WAC was in full and timely compliance with the obligations of this CIA for which the OIG demands payment; and (b) the period of noncompliance, if any. WAC shall have the burden of proving its full and timely compliance and the steps taken to cure the noncompliance, if any. If the ALJ finds for the OIG with regard to a finding of a breach of this CIA and orders WAC to pay Stipulated Penalties, such Stipulated Penalties shall become due and payable twenty (20) days after the ALJ issues such a decision notwithstanding that WAC may request review of the ALJ decision by the DAB.

3. *Exclusion Review.* Notwithstanding any provision of Title 42 of the United States Code or Chapter 42 of the Code of Federal Regulations, the only issues in a proceeding for exclusion based on a material breach of this CIA shall be (a) whether WAC was in material breach of this CIA; (b) whether such breach was continuing or cured as of the date of the Exclusion Letter; and (c) whether, in the case of an alleged material breach which cannot be cured within the 35 day period, (i) WAC has begun to take action to cure the material breach, (ii) WAC is pursuing such action with due diligence, and (iii) WAC has provided to OIG a reasonable timetable for curing the material breach.

For purposes of any exclusion remedy addressed herein, exclusion shall take effect only after an ALJ decision that is favorable to the OIG. WAC's election of its

contractual right to appeal to the DAB shall not abrogate the OIG's authority to exclude WAC upon the issuance of the ALJ's decision. If the ALJ sustains the determination of the OIG and determines that exclusion is authorized, such exclusion shall take effect twenty (20) days after the ALJ issues such a decision, notwithstanding that WAC may request review of the ALJ decision by the DAB.

#### **XI. EFFECTIVE AND BINDING AGREEMENT**

Consistent with the provisions in the Settlement Agreement pursuant to which this CIA is entered, and into which this CIA is incorporated, WAC and OIG agree as follows:

A. This CIA shall be binding on the successors, assigns and transferees of WAC; and it shall be binding on the facilities operated by WAC presently or in the future.

B. This CIA shall become final and binding on the date the final signature is obtained on the CIA.

C. Any modifications to this CIA shall be made with the prior written consent of the parties to this CIA.

D. The undersigned WAC signatories represent and warrant that they are authorized to execute this CIA. The undersigned OIG signatory represents that he is signing this CIA in his official capacity and that he is authorized to execute this CIA.

ON BEHALF OF WAC, INC.



Joseph Krumenacker  
WAC, Inc. (now known as Holland-Glen)

9/8/2000  
DATE

**ON BEHALF OF THE OFFICE OF INSPECTOR GENERAL  
OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**



LEWIS MORRIS

Assistant Inspector General for Legal Affairs

Office of Inspector General

U. S. Department of Health and Human Services

8/20/02  
DATE

## APPENDIX A

### A. Claims Review.

1. **Definitions.** For the purposes of the Claims Review, the following definitions shall be used:

- a. Claims Review Sample: A statistically valid, randomly selected, sample of items selected for appraisal in the Claims Review.
- b. Item: Any discrete unit that can be sampled (*e.g.*, code, line item, beneficiary, patient encounter, etc.).
- c. Overpayment: Consistent with the definition of Overpayment as articulated in section III.H.1.a of the CIA, the amount of money WAC has received in excess of the amount due and payable under any Federal health care program requirements. For the purposes of the Claims Review and all reporting to the OIG under this CIA, WAC shall not subtract or “net out” underpayments when determining the amount of relevant Overpayments.
- d. Paid Claim: A code or line item submitted by WAC and for which WAC has received reimbursement from the Medicare program and all other Federal health care programs.
- e. Population: All Items for which WAC has submitted a code or line item and for which WAC has received reimbursement from the Medicare program and all other Federal health care programs (*i.e.*, a Paid Claim) during the 12-month period covered by the Claims Review. To be included in the Population, an Item must have resulted in at least one Paid Claim.
- f. Probe Sample: A sample of Items selected through simple random sampling from the Population for the purpose of estimating the mean and standard deviation of the Population. The estimated mean and standard deviation of the Population are to be used to calculate the minimum number of Items to be included in the Claims Review Sample.
- g. RAT-STATS: OIG’s Office of Audit Services Statistical Sampling Software. RAT-STATS is publicly available to download through the Internet at “[www.hhs.gov/oig/oas/ratstat.html](http://www.hhs.gov/oig/oas/ratstat.html)”.

2. **Description of Claims Review.** The Claims Review shall consist of an appraisal of a statistically valid sample of Items (the Claims Review Sample) that

can be projected to the total Population.

a. Confidence and Precision Requirements. The Claims Review Sample must contain a sufficient number of Items so that if the Overpayments identified in the Claims Review Sample were projected to the Population, the projection would provide a 90% confidence level and a maximum relative precision (*i.e.*, semi-width of the confidence interval) of plus or minus 25% of the point estimate. In other words, if the Claims Review Overpayment results were projected to the Population at a 90% confidence level, the confidence interval (expressed in dollars) must be sufficiently narrow that the upper bound of the confidence interval would not exceed 125% of the midpoint of the confidence interval (the point estimate), and the lower bound of the confidence interval would not be less than 75% of the midpoint of the confidence interval.

b. Use of a Probe Sample to Determine Claims Review Sample Size. To determine how many Items must be included in the Claims Review Sample to meet the 90% confidence level and 25% precision requirements, the mean and the standard deviation of the Population must be estimated. These estimates shall be developed through the use of a single Probe Sample. The Probe Sample shall be used to determine the minimum Claims Review Sample size through one of the two following options:

i. *Probe Sample with a Minimum Size of Thirty Items.* The Probe Sample shall include at least 30 Items, and shall be selected through the use of RAT-STATS' "Random Numbers" function. Once all Paid Claims associated with the Items included in the Probe Sample have been reviewed, the estimated mean and standard deviation of the Population shall be determined. This determination is based on the Overpayment amount received by WAC for each Item in the sample. The "Variable Appraisals" function of RAT-STATS shall be used to calculate the estimated mean and standard deviation of the Population. For purposes of estimating the mean and standard deviation of the Population, and entering this information into the "Variable Appraisals" function of RAT-STATS, any underpayment identified for a Paid Claim in the Probe Sample shall be treated as a zero overpayment. If no Overpayments are found in this Probe Sample, then a second Probe Sample, of at least 30 Items, must be selected and reviewed. The estimated mean and standard deviation of the Population (based on the amount of Overpayments received

by WAC for each sample Item) shall be determined from this Probe Sample, using RAT-STATS' "Variable Appraisals" function. If no Overpayments are found in this second Probe Sample, then the Claims Review can be terminated with the results of the second Probe Sample, and the results of the two Probe Samples shall be reported in lieu of the Claims Review when preparing and submitting the Claims Review Report (see section B, below); or

ii. *Probe Sample with a Minimum Size of Fifty Items.* The Probe Sample shall include at least 50 Items, and shall be selected through the use of RAT-STATS' "Random Numbers" function. Once all Paid Claims associated with the Items included in the Probe Sample have been reviewed, the estimated mean and standard deviation of the Population shall be determined. This determination is based on the Overpayment amount received by WAC for each Item in the sample. The "Variable Appraisals" function of RAT-STATS shall be used to calculate the estimated mean and standard deviation of the Population. For purposes of estimating the mean and standard deviation of the Population, and entering this information into the "Variable Appraisals" function of RAT-STATS, any underpayment identified for a Paid Claim in the Probe Sample shall be treated as a zero overpayment. If no Overpayments are found in this 50 Item Probe Sample, then the Claims Review can be terminated with the review of the Probe Sample and the results of the Probe Sample shall be reported in lieu of the results of the Claims Review when preparing and submitting the Claims Review Report (see section B, below).

c. Calculation of Claims Review Sample Size and Selection of the Claims Review Sample. The estimates of the mean and the standard deviation of the Population obtained through the review of the Probe Sample shall be used to calculate the minimum size of the Claims Review Sample. In order to determine the minimum number of Items that must be included in the Claims Review Sample to meet the 90% confidence level and 25% precision requirements, RAT-STATS' "Sample Size Estimators" (located under the "Utility Programs" file) shall be used. The Claims Review Sample shall be selected by using RAT-STATS' "Random Numbers" function, and shall be selected from the entire Population, with the Population including those Items reviewed as part of the Probe Sample, so that all Items in the Population have an equal chance of inclusion in the

## Claims Review Sample.

d. Item Appraisal. For each Item appraised (either as part of the Claims Review Sample or of the Probe Sample), only Paid Claims shall be evaluated. Every Paid Claim in the Claims Review Sample shall be evaluated by the IRO to determine whether the claim submitted was correctly coded, submitted, and reimbursed. Each appraisal must be sufficient to provide all information required under the Claims Review Report.

e. Paid Claims without Supporting Documentation. For the purpose of appraising Items included in the Claims Review and/or the Probe Sample, any Paid Claim for which WAC cannot produce documentation sufficient to support the Paid Claim shall be considered an error and the total reimbursement received by WAC for such Paid Claim shall be deemed an Overpayment. Replacement sampling for Paid Claims with missing documentation is not permitted.

f. Use of First Samples Drawn. For the purposes of all samples (Probe Sample(s) and Claims Review Sample(s)) discussed in this Appendix, the Paid Claims associated with the Items selected in the first sample (or first sample for each strata, if applicable) shall be used. In other words, it is not permissible to generate a number of random samples and then select one for use as the Probe Sample or Claims Review Sample.

**B. Claims Review Report**. The following information shall be included in each Claims Review Report:

### 1. *Claims Review Methodology*

a. Claims Review Objective: A clear statement of the objective intended to be achieved by the Claims Review.

b. Sampling Unit: A description of the Item as that term is utilized for the Claims Review. As noted in section A.1.b above, for purposes of this Billing Engagement, the term "Item" may refer to any discrete unit that can be sampled (e.g., claim, line item, beneficiary, patient encounter, etc.).

c. Claims Review Population: A description of the Population subject to the Claims Review.

d. Sampling Frame: A description of the sampling frame, which is the totality of Items from which the Probe and Claims Review Sample have been selected and an explanation of the methodology used to identify the sampling frame. In most circumstances, the sampling frame will be identical to the Population.

e. Sources of Data: A description of the documentation relied upon by the IRO when performing the Claims Review (*e.g.*, medical records, physician orders, certificates of medical necessity, requisition forms, local medical review policies, HCFA program memoranda, Medicare carrier or intermediary manual or bulletins, other policies, regulations, or directives).

f. Review Protocol: A narrative description of how the Claims Review was conducted and what was evaluated.

## ***2. Statistical Sampling Documentation***

a. The number of Items appraised in the Probe Sample(s) and in the Claims Review Sample.

b. A copy of the RAT-STATS printout of the random numbers generated by the "Random Numbers" function.

c. A copy of the RAT-STATS printout of the "Sample Size Estimators" results used to calculate the minimum number of Items for inclusion in the Claims Review Sample.

d. A copy of the RAT-STATS printout of the "Variable Appraisals" function results for the Probe Sample.

e. The Sampling Frame used in the Probe Sample(s) and the Claims Review Sample will be available to the OIG upon request.

## ***3. Claims Review Results***

a. Total number and percentage of instances in which the IRO determined that the Paid Claim submitted by WAC ("Claim Submitted") differed from what should have been the correct claim ("Correct Claim"), regardless of the effect on the payment.

b. Total number and percentage of instances in which the Claim Submitted differed from the Correct Claim and in which such difference resulted in an Overpayment to WAC.

c. The total dollar amount of all Paid Claims in the Claims Review Sample and the total dollar amount of Overpayments associated with the Paid Claims identified by the Claims Review. (This is the total dollar amount of the Overpayments identified in section B.3.b above.) The IRO may, in its report to WAC, identify underpayments, but any underpayments identified during the Claims Review shall not be offset or “netted out” of the total dollar amount of Paid Claims or of the Overpayments when reporting these amounts in the Claims Review Report to the OIG.

d. A spreadsheet of the Claims Review results that includes the following information for each Paid Claim appraised: Federal health care program billed, beneficiary health insurance claim number, date of service, procedure code submitted, procedure code reimbursed, allowed amount reimbursed by payor, correct procedure code (as determined by the IRO), correct allowed amount (as determined by the IRO), dollar difference between allowed amount reimbursed by payor and the correct allowed amount. (See Attachment 1 to this Appendix.)

4. **Credentials.** The names and credentials of the individuals who: (1) designed the statistical sampling procedures and the review methodology utilized for the Claims Review; and (2) performed the Claims Review.